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| 10/670,268      | 09/26/2003  | Fatehali Mohamed     | PAT 901-2           | 4939             |

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EXAMINER

PASCUA, JES F

ART UNIT

PAPER NUMBER

3727

DATE MAILED: 09/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/670,268

Applicant(s)

MOHAMED, FATEHALI

Examiner

Jes F. Pascua

Art Unit

3727

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 28 June 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 9-13 and 15-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,284,229 to Schmidt et al. and U.S. Patent No. 5,845,995 to Starlinger Huemer.

Schmidt et al. discloses the claimed device especially the sack body being made from a plastics material or plastics tape fabric (see column 1, lines 43-46) and the cover sheet being made from plastics material or a fabric of plastics tapes (see column 2, lines 49-50). However, Schmidt et al. does not disclose the sack body or the cover sheet being constructed from monoaxially oriented woven tape fabric. Starlinger Huemer discloses that it is known in the art to use monoaxially oriented woven tape fabric for the sack body and cover sheet of an analogous box bottomed sack. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the monoaxially oriented woven tape fabric of Starlinger Huemer to make either the sack body or cover sheet of Schmidt et al., in order to provide a sack that has high strength and is dimensionally stable. Moreover, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use the monoaxially oriented woven tape fabric of Starlinger Huemer to make either the sack

body or cover sheet of Schmidt et al., since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice.

Since, Schmidt et al. does not explicitly require that both the sack body and cover sheet be made from monoaxially oriented woven tape fabric, the combination of Schmidt et al. and Starlinger Huemer, as discussed above, meets the recitation "only one of the sack body and cover sheet are constructed from monoaxially oriented woven tape fabric".

Regarding claim 12, it would have been obvious to one having ordinary skill in the art at the time the invention was made to heat seal the cover sheet to the sack body instead of adhering it, since the Examiner takes Official Notice of the equivalence of heat sealing and adhering for their use in the bag art and the selection of any of these known equivalents to attach the cover sheet to the sack body in Schmidt et al. would be within the level of ordinary skill in the art.

Regarding claim 18, Schmidt et al. discloses the claimed device except for the sack body having a both ends folded into a box bottom configuration and including a second cover sheet attached to the second folded end of the sack body. Starlinger Huemer discloses that it is known in the art to provide a second end that is folded into a box bottom configuration with a second cover sheet attached thereto. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the opposite end of the Schmidt et al. sack body with a second end that is folded into a box bottom configuration with a second cover sheet attached thereto as

taught by Starlinger Huemer discloses the claimed invention except for . It would have been obvious to one having ordinary skill in the art at the time the invention was made to , since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art.

3. Claims 2-4, 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schmidt et al. and Starlinger Huemer, as applied to claim 1 above, and in further view of U.S. Patent No. 4,382,538 to Wilharm.

Schmidt et al. and Starlinger Huemer disclose the claimed device except for the sack having a liner that is larger than the sack body. Wilharm discloses that it is known in the art to provide a liner that is larger than an analogous sack. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the sack body of Schmidt et al. with the liner of Wilharm, in order to reduce the stress at the bottom of the sack body when the sack is filled.

Regarding claim 8, Schmidt et al., Starlinger Huemer and Wilharm disclose the claimed invention, as discussed above, except for liner having thickness of about 5-100 $\mu$ m. It would have been an obvious matter of design choice to make the liner of Wilharm with a thickness of about 5-100 $\mu$ m, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955).

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4. Claims 2, 3, 5 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schmidt et al. and Starlinger Huemer, as applied to claim 1 above, and in further view of U.S. Patent No. 5,553,943 to Cook et al.

Schmidt et al. and Starlinger Huemer disclose the claimed device except for the sack having a liner attached to the sack body by stitching. Cook et al. discloses that it is known in the art to stitch a liner within an analogous sack body. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the sack body of Schmidt et al. with the stitched-in liner of Cook et al., in order to protect the contents of the sack from moisture.

Regarding claim 8, Schmidt et al., Starlinger Huemer and Cook et al. disclose the claimed invention, as discussed above, except for liner having thickness of about 5-100 $\mu$ m. It would have been an obvious matter of design choice to make the liner of Cook et al. with a thickness of about 5-100 $\mu$ m, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art.

5. Claims 2, 3, 6 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schmidt et al. and Starlinger Huemer, as applied to claim 1 above, and in further view of U.S. Patent No. 6,883,964 to Beaulieu.

Schmidt et al. and Starlinger Huemer disclose the claimed device except for the sack having microperforated liner with the sack body. Beaulieu discloses that it is known in the art to provide a microperforated liner within an analogous sack body. It

would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the sack body of Schmidt et al. with the microperforated liner of Beaulieu, in order to protect the contents of the sack from moisture while permitting ventilation.

### ***Response to Arguments***

6. Applicant's arguments with respect to claims 1-18 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***


7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jes F. Pascua whose telephone number is 571-272-4546. The examiner can normally be reached on Mon.-Thurs..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan J. Newhouse can be reached on 571-272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Jes F. Pascua  
Primary Examiner  
Art Unit 3727

JFP